FINAL REPORT

PREMIER'S COUNCIL ON NATIVE AFFAIRS

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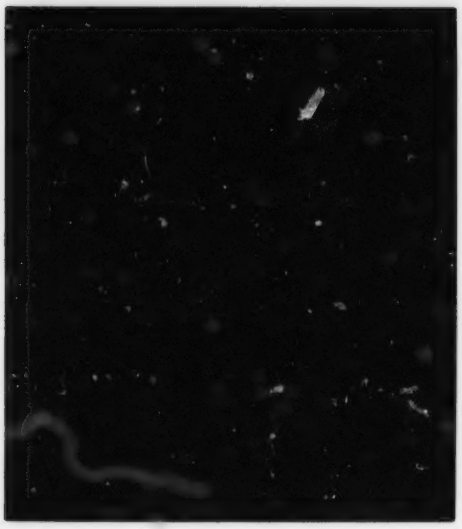

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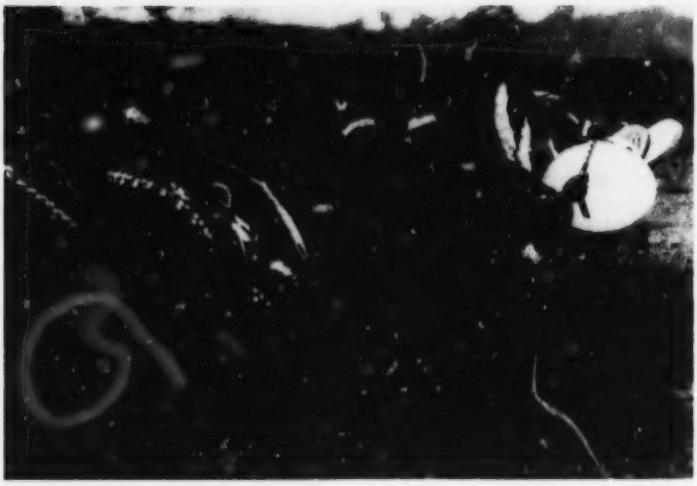
Canadian Cataloguing in Publication Data

British Columbia. Premier's Council on Native Affairs
Final Report

ISBN 0-7726-1325-7

1. Indians of North America - British Columbia.
2. Indians of North America - Canada - Government relations - 1951

E78.B9P74 1990 323.1'1970711 C91-092141-5



P R E F A C E

In July 1989 Premier Vander Zalm, recognizing that aboriginal people in British Columbia face a matrix of issues that is more entrenched and more complex than faced by the majority of British Columbians, created the Premier's Council on Native Affairs.

The purpose of the Council was to meet with tribal councils and aboriginal organizations across the Province to hear their concerns, and to review and make recommendations on provincial policies affecting aboriginal people.

The Premier appointed to the council three aboriginal and three non-aboriginal members, along with the Minister of Native Affairs and the MLA for MacKenzie. The Premier is chairman of the Council (See Appendix A).

Over a period of 18 months, the Council met with 11 tribal councils and nine aboriginal organizations (see Appendix B).

Hundreds of issues were raised. They ranged from specific, local concerns to widespread social and economic problems.

Local issues were referred to provincial and federal ministries for immediate follow-up where possible.

Most of these issues are extremely complex, requiring appropriate action by the federal and provincial governments to resolve longstanding grievances on the aboriginal land and resource question. The issues are further complicated by jurisdictional divisions between the two governments.

In July 1990, the Council submitted a progress report and interim recommendations to Cabinet dealing primarily with the land and resource question and

with the larger public policy issues which were raised by aboriginal first nations. Cabinet fully endorsed the Council's recommendations.

The main message the Council heard from aboriginal people across the Province was "respect who we are — help settle the land question."

A number of other themes emerged from the meetings:

- the need for more effective economic policies and provision of resources to allow greater economic opportunity for aboriginal people;
- the need for more effective social and health services;
- the need for improved access and control over education;
- the need to safeguard the environment.

By far the most important of all the concerns raised was the need to resolve the land question.

This Final Report of the Premier's Council on Native Affairs includes both the interim recommendations made to Cabinet in July, the provincial government's response to those recommendations, a summary of actions taken since the interim report was tabled, and a concluding chapter with comments on recent events and the dissolution of the Council.

PREMIER'S COUNCIL ON NATIVE AFFAIRS PROGRESS REPORT AND INTERIM RECOMMENDATIONS

July 25, 1990

INTRODUCTION

Over the past year we have travelled from one end of this Province to the other to meet with aboriginal people.[1]

We have met in community halls with large public audiences and with small delegations.

We have met with 11 tribal councils representing 10 language groups, 76 bands and more than 17,000 tribal members.

We have also met groups representing tens of thousands of off-reserve[2] aboriginal people and with provincial associations representing a variety of distinct aboriginal concerns.

Although we expect to learn more at future meetings, we have prepared this progress report on our findings to date.

Our hope is that this document will provide the basis for a broadly-based public discussion on the issues facing the British Columbia Government, leading to action and positive changes in its relationship with aboriginal people.

[1] 'Aboriginal' is the term that has been used most frequently in this report to refer to the people who first inhabited British Columbia. 'Indian' is a legal term for an aboriginal person registered or entitled to be registered under the federal *Indian Act*.

[2] 'Off-reserve' is a term widely used by non-aboriginal people to describe aboriginal populations not living on designated Indian 'reserve' lands.

The intense desire of aboriginal people throughout British Columbia to create their own opportunities and to solve their own problems has made a lasting impression on the members of the Council. Aboriginal people clearly want control of their own destinies. In the past, legislation and bureaucratic systems have restricted the aboriginal control of aboriginal communities.

However, we were presented with many examples of situations where aboriginal people, individually and collectively, did not have the authority or culturally sensitive economic and legal tools to launch their plans, let alone achieve their goals.

Self-sufficiency and self-determination is often frustrated by legislative barriers and inter-jurisdictional problems with the federal and provincial governments, or by structural economic barriers that affect aboriginal people more severely than other British Columbians.

It is distressing to see that most aboriginal communities have not been able to participate fully in the economic activity that has taken place in this province in recent years.

While the province overall has seen reduced unemployment and healthy growth in the business sector, we still see aboriginal unemployment at well over 50 per cent in many parts of British Columbia.

The consequence of such deep unemployment is widespread poverty. This is reflected in many of the social problems described at our meetings.

The life expectancy of aboriginal people is still 10 years shorter than for other British Columbians. This is not acceptable in British Columbia in 1991. The incidence of suicide, family violence and substance abuse is more than double that of the general population.

In spite of the economic and social problems, there was a great deal of hope and positive enthusiasm for change in the communities we have visited.

Community leaders are determined to face difficult problems head on and to seek solutions through hard work and ingenuity.

We heard of several social programs, based on traditional values, that were developed and operated by aboriginal communities. We were also impressed with the many and varied efforts to pursue economic independence.

Where there have been successes, however, the impetus has come largely from within the aboriginal community itself. Governments have cooperated, but there is still a great deal of room for support and expansion of this fledgling progress.

The unresolved land question loomed large over most of our meetings with tribal councils. Many aboriginal leaders seemed to consider this the fundamental issue facing their people. Their view appeared to be that settling land claims would demonstrate a commitment to respect aboriginal peoples and that this was a prerequisite for economic and social development, and attainment of self-sufficiency and self-determination.

It is abundantly clear that this is a source of increasing frustration. There is increasing determination among aboriginal people to have this issue resolved.

Again and again the Council heard specific warnings that patience is running out. Again and again tribal groups appealed to the Province to join in a process of honest and respectful discussion and negotiation and to help find a solution everyone can live with.

THE LAND QUESTION

The primary concern of the tribal councils and aboriginal organizations visited by the Premier's Council was the immediate need to address the outstanding issue of aboriginal land claims.

The whole question of Indian land claims has been the subject of debate and discussion across Canada since Confederation - and nowhere more so than in British Columbia. Nineteen of the 24 outstanding comprehensive land claims that have been accepted for negotiation by the federal government to date are in British Columbia.

Indian leaders conveyed a sense of urgency to the Council in seeking to have this issue resolved.

Indian communities stated strongly that there has not been sufficient recognition of the proper place of Indian communities in the social, political and economic fabric of British Columbia. They identified a need for an independent land and financial base that would provide economic opportunities in the local community.

The Council shares the view that there is a need to provide economic advancement and social equity for British Columbia's first nations, so that aboriginal citizens can equitably share the responsibility for management of natural resources and the benefits which flow from them.

The Premier's Council, after considerable deliberation, is of the view that immediate steps are required to address this situation.

The Council is mindful that major litigation on these issues has been undertaken in recent years.

The Council acknowledges that the Canadian Constitution recognizes and protects aboriginal rights. The *Sparrow* case, recently decided by the Supreme Court of Canada, also remarked on the existence of certain aboriginal rights. It is unfortunate that it has been left to the courts to define what these rights are.

In addition, the Supreme Court of British Columbia recently heard final arguments in what may prove to be a landmark case on aboriginal title *(Delgum Uukw et al V. The Queen)*.

The Council concludes that a progress report and recommendations to Cabinet should and must be made in order to speed the process of resolving the issues of aboriginal rights and title.

The Council believes that negotiations between the parties are a more appropriate way to resolve the question of aboriginal title and rights than through litigation. The Council also believes that, following the general direction given in the *Sparrow* decision, it may be easier to resolve the questions of responsibil-

ity for settlement of the issues between the federal and provincial governments.

Importantly, the *Sparrow* decision would seem to confirm that the Government of Canada has the primary responsibility, and also a fiduciary or trust obligation, for Indian matters.

This suggests to the Council that the Government of Canada must quickly find a workable formula for fulfilling its fundamental responsibilities to deal with the outstanding land question in British Columbia.

The Premier's Council agrees with the concerns expressed again and again by aborignal communities that the established federal policy of only negotiating one land claim at a time in British Columbia is unworkable and unacceptable in these times.

The Council was also made aware of the problems created by Canada's policy of only accepting claims for negotiation where continuous use and occupancy of traditional areas has been maintained.

The *Sparrow* decision made it clear that aboriginal rights continue to exist, even where a community has not been able to maintain continuous use and occupancy of traditional lands. The federal government is reviewing its policy in this area, and is expected to revise the policy to be consistent with the view of the Supreme Court.

The Council urges Canada to re-work its policies to reflect new legal and geographic realities and to develop a comprehensive framework for settling British Columbia's land issues. This new policy has been promised by the federal government for some time.

The Government of British Columbia must, as well, find new ways to address this complex issue and to help effect a just settlement of Native land claims.

The federal government alone cannot access the resources and instruments that are necessary to do this.Currently the title to and management of the land and natural resources which, in part, might form the basis for a settlement of some claims, are vested in the provincial Crown, and thus, it is vital that the Government of British Columbia be an active participant at the negotiating table.

In addition, the Province should be at the table to ensure that the interests of all British Columbians are taken into consideration as part of the negotiations between Canada and Indian bands.

We do not believe that the Government of British Columbia, by agreeing to such a recommendation, would in any way be relieving Canada of its legal and financial obligations to Native people or the Province.

The Council also believes that the Government of British Columbia should move quickly to establish a specific process by which aboriginal land claims may be received, prioritized and placed on the negotiating table.

At the same time, the Council believes Indian leaders and the Province should work together to press the Government of Canada to accept its main responsibility for resolving B.C.'s land claims.

ECONOMIC DEVELOPMENT

The current regulatory environment in which aboriginal people find themselves has not allowed full participation in the economy. While not all aboriginal people in British Columbia are excluded from the economic mainstream, the participation rate of aboriginal citizens, as workers and entrepreneurs, is unquestionably lower than in other non-aboriginal communities.

This is not because of lack of will. In communities we visited, aboriginal leaders shared a vision of local economic development. They saw it as essential for strengthening their communities and restoring traditional customs and value systems to business ventures.

We heard how economic development could create businesses, employment and income that would in turn finance community initiatives. Economic development was also seen as a means of providing individuals and families with the self-esteem that is so often eroded and destroyed by poverty.

We looked for common factors to explain why so many aboriginal people in all regions of the Province from so many different cultural and language groups have been excluded from economic growth. Even in the relative prosperity of Vancouver, aboriginal people are often at the bottom end of the economic scale.

What we discovered are some significant structural barriers:

AVAILABILITY OF INVESTMENT AND OPERATING CAPITAL

The federal *Indian Act* makes it impossible for a lender to attach property located on an Indian reserve. As a result, aboriginal business people are unable to offer security for a business loan - even when the business is viable and has some valuable assets.

Arrangements such as financing and bonding that are taken for granted by off-reserve businesses are simply not available to aboriginal businesses wanting to produce or market their products or services on-reserve.

For example, a band may have valuable timber on its reserve, but be unable to finance the equipment needed to harvest it.

The federal and provincial governments offer a number of programs to help aboriginal businesses overcome this problem. However, we have heard complaints that there are insufficient program funds available and that government programs cannot respond quickly enough when new opportunities arise. They are not a replacement for the banking system. By the time help is approved, the opportunity has passed. Businesses owned by aboriginal people need to have the same ability to attract capital as other businesses.

Government measures to help might include tax incentives for those who finance Native-owned businesses, special assistance to aboriginal lending institu-

tions, an expanded program of loans or loan guarantees through programs such as the Province's First Citizens' Fund.

LEADERSHIP AND TRAINING

Success in business requires many skills - some of which can only be gained through training.

Isolated, rural communities, generally, have a lower post-secondary participation rate than urban centres. The hundreds of rural aboriginal communities in British Columbia are no exception to this tendency.

We have also been told it is difficult for aboriginal young people to cope with the different culture when they move away from their families to go to school.

Those living in communities with high unemployment and little or no business opportunities also do not have much incentive to train themselves for business.

The provincial government is currently studying ways to increase the participation rate of aboriginal people in post-secondary education. The Council endorses the efforts of the Provincial Advisory Committee on Post-Secondary Education for Native Learners in that regard. It may wish to consider including in this effort a special emphasis on training, including business internship programs that will provide skills that are useful in economic development.

SOCIAL ISSUES

Aboriginal leaders who met with the Council were blunt and candid in their description of social problems. At times it was painful to come face to face with these problems.

The Council has tremendous respect for the grace and courage of those who were able to discuss these matters with a group of outsiders. Many of the problems faced by aboriginal people appear to be part of the legacy of misguided efforts. For example, for the better part of a century and as recently as the late 1960's, many hundreds of aboriginal families were disrupted by the placement of children in federally-funded residential schools hundreds of miles away from their homes. Although many of these schools were well run, many were not and thousands of children suffered physical, emotional and even sexual abuse.

Similarly, federal Indian policies and the *Indian Act* contributed to the breakdown of traditional social structures in aboriginal communities by removing most of the authority of band councils to make decisions about their communities. The Act also created divisiveness and disrespect for the traditional hereditary judicial systems.

PROGRAMS

Social problems are very much related to many of the economic problems faced by aboriginal communities. Generations of poverty and powerlessness rob people and families of their self-esteem.

However many social problems may be rooted in the mistakes of the past or in economic conditions, the damage still needs to be treated and healed.

One message that we heard consistently is that the aboriginal communities want control over their own social programs to address social issues in their own ways.

There is sufficient evidence that programs developed and controlled from outside the aboriginal community have not been successful.

We recommend that the provincial and federal governments support the concept of social programs being controlled by aboriginal communities.

JURISDICTION

Aboriginal people have only recently been recognized as citizens in their own home and native land. The Province of British Columbia led the way in 1949 by granting citizenship and the right to vote. The Government of Canada granted aboriginal citizenship in 1956.

Although aboriginal people are citizens of British Columbia, the Canadian constitution assigns responsibility for providing most government services for those who live on reserves to the federal government.

Social services, education and health care for aboriginal people who do not live on reserve are the responsibility of the Province.

However, these jurisdictions are not as independent as they may first appear.

- Many aboriginal individuals move on and off designated reserve from time to time. This is a traditional tribal custom observed at certain seasons of the year to ensure optimum economic and social stability.
- The standard of service provided by the two levels of government is sometimes different.

Health and social issues can emerge on or off reserve and the provincial and federal governments should work together to find ways to cooperate and ensure that their programs complement each other.

SELF-GOVERNMENT

The concept of self-government in aboriginal communities means different things to different groups. The term aboriginal self-government does not at this time have a precise legal meaning in Canada. It describes a political principle that provides local communities with the authority to regulate themselves and their institutions.

In practice, self-government is discussed at three levels in British Columbia:

CONSTITUTIONAL ENTRENCHMENT

During the debate on Canada's current Constitution, many people - especially aboriginal people - argued that aboriginal self-government is an inherent right and should be entrenched in the Constitution. This would mean that all federal and provincial laws would be required to conform to the principle that aboriginal people have inherent jurisdiction over their own communities.

LEGISLATED SELF-GOVERNMENT

Legislated self-government occurs when provincial and federal governments pass legislation to transfer jurisdiction to local aboriginal governments. The nature of this transfer depends on the objectives of the aboriginal councils and the outcome of negotiations with government. It is unlikely that any two arrangements would be the same. The Sechelt Indian Band is an example of negotiated and legislated self-government. There are other examples in other Canadian provinces.

INCREMENTAL SELF-GOVERNMENT

Incremental self-government occurs when services such as health, child care or education are transferred from government control to local control by a band or tribal council. In some cases, this is an interim step along the road to more comprehensive, legislated self-government.

Increased support for self-government would give aboriginal communities increased opportunities to use talents and strengths that are often frustrated by the federal *Indian Act*, and to develop skills that may be used in business enterprises. Self-government is clearly linked to self-determination, self-reliance and self-respect in aboriginal communities.

We recommend the provincial government actively look for opportunities to accelerate the process of legislated and incremental self-government, and to encourage discussion of constitutional entrenchment of self-government during any future review of the Canadian Constitution.

PUBLIC EDUCATION

The Council recommends that a major public awareness initiative should be started immediately to ensure a better understanding of the history of aboriginal issues in British Columbia.

CONCLUSION

The Council is heartened by the Premier's commitment to place this progress report before Cabinet and to ensure that a decision is rendered in August.

SUMMARY OF RECOMMENDATIONS

THE LAND QUESTION

The Council urges Canada to re-work its policies to reflect new legal and geographic realities and to develop a comprehensive framework for settling British Columbia's land issues. This new policy has been promised by the federal government for some time.

The Government of British Columbia, as well, must find new ways to address this complex issue and to help effect a just settlement of Native land claims. The federal government alone cannot access the resources and instruments that are necessary to do this.

Currently, title to and management of the land and natural resources which, in part, might form the basis for a settlement of some claims, are vested in the provincial Crown, and thus, it is vital that the Government of British Columbia be an active participant at the negotiating table.

In addition, the Province should be at the table to ensure that the interests of all British Columbians are taken into consideration as part of the negotiations between Canada and Indian bands.

We do not believe that the Government of British Columbia, by agreeing to such a recommendation, would in any way be relieving Canada of its legal and financial obligations to Native people or the Province.

The Council also believes that the Government of British Columbia should move quickly to establish a specific process by which aboriginal land claims may be received, prioritized and placed on the negotiating table.

At the same time, the Council believes Indian leaders and the Province should work together to press the Government of Canada to accept its primary responsibility for resolving B.C.'s land claims.

ECONOMIC DEVELOPMENT

Businesses owned by aboriginal people need to have the same ability to attract capital as other businesses.

Government measures to help might include tax incentives for those who finance Native-owned businesses, special assistance to aboriginal lending institutions, an expanded program of loans or loan guarantees through programs such as the Province's First Citizens' Fund.

The provincial government is currently studying ways to increase the participation rate of aboriginal people in post-secondary education. The Council endorses the efforts of the Provincial Advisory Committee on Post-Secondary Education for Native Learners in that regard. It may wish to consider including in this effort a special emphasis on training, including business internship programs that will provide skills that are useful in economic development.

SOCIAL ISSUES

One message that we heard consistently is that the aboriginal communities want control over their own social programs to address social issues in their own way.

We recommend that the provincial and federal governments support the concept of social programs being controlled by aboriginal communities.

Health and social issues can emerge on or off reserve and the provincial and federal governments should work together to find ways to cooperate and ensure that their programs complement each other.

Increased support for self-government would give aboriginal communities increased opportunities to use talents and strengths that are often frustrated by the federal *Indian Act*, and to develop skills that may be used in business enterprises. Self-government is clearly linked to self-determination, self-reliance and self-respect in aboriginal communities.

We recommend the provincial government actively look for opportunities to accelerate the process of legislated and incremental self-government, and to encourage discussion of constitutional entrenchment of self-government during any future review of the Canadian Constitution.

PUBLIC EDUCATION

The Council recommends that a major public awareness initiative should be started immediately to ensure a better understanding of the history of aboriginal issues in British Columbia.

APPENDIX A

MEMBERS OF THE PREMIER'S COUNCIL ON NATIVE AFFAIRS

The Honourable William Vander Zalm,
Premier of British Columbia

The Honourable Jack Weisgerber,
Minister of Native Affairs

Harold Long,
MLA for provincial electoral district of Mackenzie

Dan Hanuse,
Elder and member of the Nimpkish Band;
Logging contractor and businessman; Originally from Alert Bay, currently residing in Vancouver

Chief Robert Louie,
Chief of the Westbank Indian Band;
Lawyer and rancher; Member of the Provincial Advisory Committee on Post-Secondary Education for Native Learners

Margaret Vickers,
Aboriginal consultant, Tsimshian member of Kitkatla;
Educator; Board member of the Open Learning Agency Board member of the Laurrier Institute; Former member of the University of Victoria Senate

Dr. Paul Gallagher,
President, Vancouver Community College;
Active in post-secondary education and affiliated with the Native Indian Education Centre in Vancouver

Mary Saunders, Q.C.,
Partner, Campney & Murphy, Barristers & Solicitors, Vancouver; Director, Justice Institute of British Columbia; Member and Acting Complaint Commissioner, B.C. Police Commission; Governor, Johannesen International School of the Arts, Victoria International Festival, Canada Opera Piccola

Hajimu Watanabe,
President and General Manager, Daiwa Securities Canada,
Parent company involved in large economic development initiatives with aboriginal groups in the United States

APPENDIX B

PREMIER'S COUNCIL ON NATIVE AFFAIRS ROUNDTABLE MEETINGS WITH TRIBAL GROUPS AND PROVINCIAL ORGANIZATIONS TO JULY 25, 1990

Nisga'a Tribal Council, New Aiyansh, July 28, 1989

United Native Nations, Vancouver, September 18, 1989

Sechelt Indian Band, Vancouver, November 6, 1989

Tahltan Tribal Council, Dease Lake, November 6, 1989

Okanagan Tribal Council, Penticton, November 28, 1989

All Nations Trust, Penticton, November 28, 1989

Intertribal Forestry Association, Penticton, November 28, 1989

Shuswap Nation Tribal Council, Kamloops, November 28, 1989

First Citizens' Advisory Committee, Vancouver, December 18, 1989

Indian Arts and Crafts Society of B.C., Vancouver, December 18,1989

Carrier-Sekani Tribal Council, Fort George Band Hall, January 19, 1990

Nuu-chah-nulth Tribal Council, Port Alberni, February 27, 1990

Haisla Tribal Council, Kitamaat Village, March 12, 1990

Provincial Advisory Committee on Post-Secondary Education for Native Learners, April 10, 1990

Nicola Valley Tribal Council, Merritt, May 4, 1990

Western Indian Agricultural Corporation Limited, Merritt, May 4, 1990

Mid-Island Tribal Council, Victoria, June 25, 1990

B.C. Association of Indian Friendship Centres, June 25, 1990

First Nations of South Island Tribal Council, Victoria, June 25, 1990

Lillooet Tribal Council, Victoria, July 20, 1990

RESPONSE TO
INTERIM REPORT AND RECOMMENDATIONS
PREMIER'S COUNCIL ON NATIVE AFFAIRS
August 8, 1990

C A B I N E T C O M M U N I Q U E

VICTORIA — "The Government of British Columbia has accepted all of the recommendations of the Premier's Council on Native Affairs and will move quickly to establish a process to assist the Government of Canada in its responsibilities to negotiate and settle outstanding land claims in B.C.", Premier Bill Vander Zalm announced today.

"The time has come for British Columbia to join the federal government and Indian people at the negotiating table, to ensure there is a just settlement of Indian land claims and to protect the interests of British Columbians in any negotiations," he said.

"Some would argue that we should leave the resolution of this issue entirely to the Government of Canada, since Canada alone can sign treaties with Indian groups and Canada is responsible for Indians and lands reserved for Indians under the Terms of Union and the *Constitution*.

"Others argue that the Government of British Columbia should take the primary role in solving this issue, accepting the existence of an undefined 'aboriginal title' which purports to give Indian people ownership of the entire province, 'lock, stock and barrel.'

"The Government of British Columbia rejects both these extreme views.

"We accept the recommendations of the Premier's Council on Native

Affairs as balanced, fair and helpful for reaching a just settlement of land claims on a basis British Columbians can understand and afford," he said.

The Council was established in 1989 by Premier Vander Zalm to address social, economic and other issues concerning Native people, including land claims.

The Premier's Council presented its interim report and recommendations July 11 and the Premier made a commitment that Cabinet would respond to the report by August 17.

The recommendations and the Province's responses are:

COUNCIL RECOMMENDATION:

The Council urges Canada to re-work its (claims) policies to reflect new legal and geographic realities and to develop a comprehensive framework for settling British Columbia's land issues. This new policy has been promised by the federal government for some time.

GOVERNMENT RESPONSE:

"The Government has heard over and over again that the existing federal claims policy, designed to deal with land claims in the northern territories and eastern arctic, is totally unworkable for B.C. We have asked federal Indian Affairs Minister Tom Siddon to seek federal Cabinet approval immediately for a new claims policy that will work for B.C. We need a policy which will see land claims settled in a reasonable period of time and in a way that is fair to everyone."

COUNCIL RECOMMENDATION:

The Government of British Columbia, as well, must find new ways to address this complex issue and to help effect a just settlement of Native land claims. The federal government alone cannot access the resources and instruments necessary to do this.

GOVERNMENT RESPONSE:

"Recognizing provincial jurisdiction over land and resources, the Province must assist the Government of Canada to effect a just settlement of Native land claims. It is stressed, however, that the ultimate financial responsibilities must rest with the federal government."

COUNCIL RECOMMENDATION:

Currently, title to and management of, the land and natural resources which, in part, might form the basis for a settlement of some claims, are vested in the provincial Crown, and thus, it is vital that the Government of British Columbia be an active participant at the negotiating table. In addition, the Province should be at the table to ensure that the interests of all British Columbians are taken into consideration as a part of the negotiations between Canada and Indian bands.

GOVERNMENT RESPONSE:

"The Province agrees that to ensure the interests of all British Columbians, including those working in fishing, forestry, mining, ranching, agriculture and other industries are protected, we must be at the table.

"As Premier, I sincerely believe we have a strong moral obligation to set the historical record right in our dealings with Indian people. At the same time, we must ensure any settlement is fair, balanced and affordable. To do that we must be at the table, bringing to the negotiations with Ottawa the concerns of the ordinary British Columbian about how a settlement might best be achieved.

"The Province of British Columbia cannot, however, accept as the basis for negotiation of claims the position put forward by some that we must recognize the legal concept of aboriginal title by which Indian groups claim absolute ownership of all land and resources within the province."

COUNCIL RECOMMENDATION:

We do not believe that the Government of British Columbia, by agreeing to such a recommendation, would in any way be relieving Canada of its legal and financial obligations to Native people or the Province.

GOVERNMENT RESPONSE:

"The Province endorses this recommendation, as well, that Canada is responsible and Canada must compensate both Native people and the Province."

COUNCIL RECOMMENDATION:

The Council believes that the Government of British Columbia should move quickly to establish a specific process by which aboriginal land claims may be received, priorized and placed on the negotiating table.

GOVERNMENT RESPONSE:

"The Government of British Columbia will be announcing specific measures in this regard in the next few weeks. We believe there is a need to provide a prudent framework of the principles and processes which should apply to negotiations.

"The Ministry of Native Affairs has been asked to report to Cabinet on the principles and processes that would form the basis of the Province's land claims policy framework; the nature and extent of current tenures and restrictions on Crown lands which might be sought by Indian claimants (working with the Ministry of Crown Lands); and matters related to fiscal relations with Indian bands (working with the Ministry of Finance)."

COUNCIL RECOMMENDATION:

At the same time, the Council believes Indian leaders and the Province should work together to press the Government of Canada to accept its primary responsibility for resolving B.C.'s land claims.

GOVERNMENT RESPONSE:

"The Province endorses this recommendation as well and will seek ways to work with Indian leaders to have Canada accept its responsibilities."

COUNCIL RECOMMENDATION:

The Council recommends that a major public awareness initiative should be started immediately to ensure a better understanding of the history of aboriginal issues in British Columbia.

GOVERNMENT RESPONSE:

"Cabinet agrees that much more needs to be understood about this very complex area and will ensure a public awareness and education initiative forms a part of our claims policy implementation process."

The Council also made recommendations in the areas of economic development and social issues:

COUNCIL RECOMMENDATION:

Businesses owned by aboriginal people need to have the same ability to attract capital as other businesses. Government measures to help might include tax incentives for those who finance Native-owned businesses, special assistance to aboriginal lending institutions, an expanded program of loans or loan guarantees through programs such as the Province's First Citizens' Fund.

GOVERNMENT RESPONSE:

"Cabinet agrees that the existing federal *Indian Act*, which prohibits Indians from pledging property or assets as security, has created undue hardships on Indians who wish to borrow and has created difficulties for those who would be lenders. We believe a major overhaul of the federal *Indian Act* is required to allow Indian British Columbians to achieve the self-reliance and economic independence they desire.

"The Government is also prepared to consider specific ways to assist, such as measures to increase loan funds available to Indian businessmen and women. Our concern is to help create jobs, address some local economic issues and seek immediate solutions to problems where we can."

COUNCIL RECOMMENDATION:

The Council noted the provincial government is currently studying ways to increase the participation rate of aboriginal people in post-secondary education and the Council had endorsed the efforts of the Provincial Advisory Committee on Post-Secondary Education for Native Learners.

GOVERNMENT RESPONSE:

"Cabinet agrees with this recommendation and has approved the Ministry of Advanced Education, Training and Technology's response to these recommendations. An announcement on implementation of this plan will be announced in the near future. This will involve an increase in Native counselling services in colleges and universities, the appointment of qualified Native people to college boards, new cross-cultural programs, curriculum development and funding for Native institutions."

COUNCIL RECOMMENDATION:

We recommend that the provincial and federal governments support the concept of social programs being controlled by aboriginal communities.

GOVERNMENT RESPONSE:

"We endorse this recommendation on the basis that increased self reliance and responsibility are laudable goals for all British Columbians. A high standard of acceptable social service program delivery in Indian communities is important and Indian responsibility for those programs can and should be the goal of both the federal and provincial governments."

COUNCIL RECOMMENDATION:

Health and social issues can emerge on or off reserve and the provincial and federal governments should work together to find ways to cooperate and ensure that programs are effective and efficient.

GOVERNMENT RESPONSE:

"Cabinet endorses this recommendation and the Ministry of Native Affairs will work to ensure increased coordination and cooperation between Indian communities, the federal government and province."

COUNCIL RECOMMENDATION:

Increased support for self-government would give aboriginal communities increased opportunities to use talents and strengths that are often frustrated by the federal *Indian Act* and to develop skills that may be used in business enterprises. Self-government is clearly linked to self-determination, self-reliance and self-respect in aboriginal communities. We recommend the provincial government actively look for opportunities to accelerate the process of legislated and incremental self-government and to encourage discussion of constitutional entrenchment of self-government during any future review of the Canadian *Constitution*.

GOVERNMENT RESPONSE:

"Cabinet endorses these recommendations on the basis that legislated practical self-government which allows Indian communities to get on with the job of running local governments is critical to self reliance and economic and social development. The Province will encourage legislated self-government, but rejects the concept that Indian communities are separate, sovereign nations which are not a part of British Columbia.

"The adoption by the Government of British Columbia of a commitment to begin negotiations with Indian people is an historical watershed in our relations with first peoples.

"The Government will continue to enunciate its new policies in this regard in the coming weeks.

"I look forward with enthusiasm and optimism to the resolution of these very complex issues in a fair and just manner," said Premier Vander Zalm.

EVENTS LEADING TO PROVINCE'S INVOLVEMENT IN NEGOTIATION OF NATIVE LAND CLAIMS

S U M M A R Y

1988

B.C. Ministry of Native Affairs created.

1989

Premier's Council on Native Affairs created.

1990

August - September

Cabinet accepted recommendation of Premier's Council on Native Affairs to change land claims policy of 119 years, and announced intention of becoming directly involved in land claims negotiations.

Province established claims registry and negotiations unit in Ministry of Native Affairs.

Premier & Minister of Native Affairs met with chiefs and tribal council leaders for information exchange.

Premier & minister met with industry leaders (management & labour) for information exchange.

October - December

Seven land claims filed with province: Nisga'a, Haisla, Gitksan Wet'suwet'en, Carrier-Sekani, Sechelt, Tahltan and Heiltsuk.

Province entered negotiations with Canada and Nisga'a Indians in north-western British Columbia on framework agreement for Nisga'a land claim (what will be negotiated and how).

Allan Williams and Tony Sheridan appointed by Province to sit on Joint Task Force on Native Land Claims to advise on process for rest of province. (Murray Coolican & Audrey Stewart representing Canada; Joe Mathias, Ed John & Miles Richardson representing Native communities). Task Force to report in June, 1991.

1991

January - February

Task Force held first meetings.

B.C. finalizing third-party consultation process — announced third-party advisory committee and negotiating principles.

Nisga'a negotiations continued. Framework agreement signed March 20, 1991.

CONCLUSION AND FINAL RECOMMENDATIONS OF THE PREMIER'S COUNCIL ON NATIVE AFFAIRS MARCH 27, 1990

On August 8th, 1990 the Government of British Columbia announced the acceptance of all the interim recommendations of the Premier's Council on Native Affairs.

A commitment was made to move quickly to establish a process to assist the Government of Canada in its responsiblities to negotiate and settle outstanding land claims in British Columbia.

We believe that commitment has been met.

The Province has joined the Government of Canada and the Nisga'a Tribal Council in northwestern British Columbia at the bargaining table. A new framework agreement outlining the scope and processes for ongoing negotiations was signed this spring.

The Province has also appointed two representatives to the joint provincial, federal, aboriginal Task Force on B.C. Land Claims which will make recommendations this summer on the scope and processes for land claims negotiations in the rest of the province, and on a joint public education process for land claims negotiations.

The Premier's Council on Native Affairs is fully supportive of these initiatives and believes they will help expedite the resolution of the land question in British Columbia.

The Council recommends that, as part of any public awareness initiatives, governments institute effective information exchanges with third-party interests in order to ensure that their concerns are noted and addressed.

The Council urges Canada to complete its revision of the federal claims policy which was originally designed to deal with the Nisga'a negotiation in British Columbia, but was substantially modified over time to deal with northern territorial claims.

The new federal land claims policy should reflect new legal and geographic realities and be designed to settle British Columbia's land claims in a reasonable period of time and in a way that is fair to all.

The Government of British Columbia must, as well, continue to be open to exploring new ways to address these issues and to actively participate in a just settlement of claims.

Clarification of the ultimate division of jurisdictional responsibility for resolution of these issues should not be allowed to impede negotiations.

Whatever the outcome of various court cases, the Government of British Columbia must be an active participant at the negotiating table.

As members of the Premier's Council, we think a great deal has been accomplished in the 18 months that we have been meeting.

At times it was hard to listen as some of the statements and stories we heard were full of human suffering and pain. The Council members, as a whole, after many hours of deliberation, believe we reached a new understanding. It is as a result of this consensus that our interim recommendations were written.

We were pleased that the Province heard our message and made the historic decision to become directly involved in the negotiation of native land claims - a first for any British Columbia government.

While much has been accomplished, much remains to be done on land claims and on other issues identified in the report.

Since the tabling of the interim report, aboriginal members of the Council have added to the list of concerns related to land claims, the need to recognize and provide support for constitutionally-protected aboriginal rights.

This is an issue that the provincial and federal governments will have to address as they continue to move forward on land claims negotiations and on constitutional reform.

Aboriginal council members also note that there has been a noticeable increase in the number of elders and hereditary chiefs who stress that "time is of the essence", but that confrontational tactics are not a desirable way to resolve problems.

The Council recognizes that not all of the issues raised at its meetings were resolved, and that not all tribal councils had an opportunity to make presentations to the Council.

In particular there is still much work to be done on concerns related to the environment and co-management of natural resources.

Aboriginal members of the Council believe that most first nations groups preferred not to disclose the depth and degree of critical social problems manifested in aboriginal lives of the 1990's.

They believe many social issues are resolvable if traditional aboriginal family systems and community standards are revitalized.

The federal and provincial governments can assist by providing culturally acceptable programs, and solutions to social problems that allow aboriginal control.

Aboriginal council members also note that federally-imposed rules and regulations restricting aggressive economic development have been described by aboriginal leaders as no longer acceptable in the 1990's. They urge the provincial government to work with the federal government to ensure the promotion and support of aboriginal businesses, corporations and economic development ventures.

Having said this, they believe the August 1990 decision by the Province of British Columbia to actively participate in land claims negotiations has assisted in the development of a new level of trust that will allow for more effective relationships with aboriginal communities and organizations.

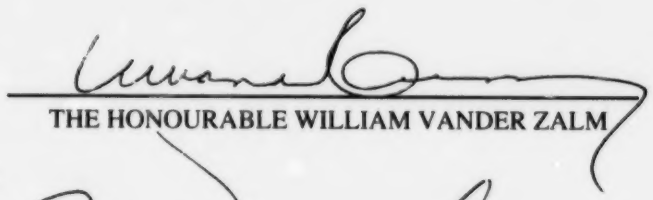
The council expects some of the unresolved issues to be the subject of land claims discussions and negotiations. Other issues have been or will be referred to Native advisory committees of various provincial and federal ministries. We would urge the Province to monitor and continue to encourage progress on these issues. It is our hope that any groups who asked to have their concerns heard by the Province will be given that opportunity.

With our interim recommendations accepted and the Province already implementing some of the most critical, we believe it is time for us to step back and allow energy to be given over to the larger process of land claims negotiations.

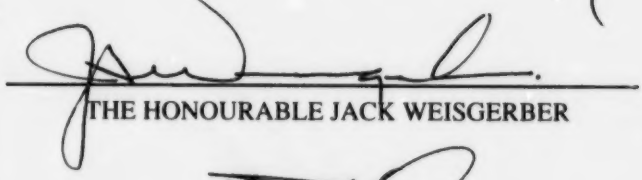
Our duties will offically end on April 2, 1991.

We would like to thank the Government of British Columbia for addressing Native issues. By forming this Council, and accepting and implementing its recommendations, the Government has shown its commitment to forging a new and better partnership with the aboriginal peoples of British Columbia.

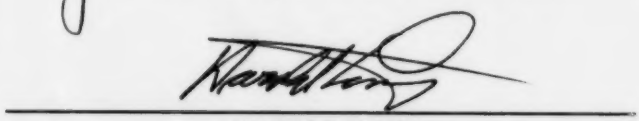
SIGNED BY THE MEMBERS OF THE PREMIER'S COUNCIL ON NATIVE AFFAIRS



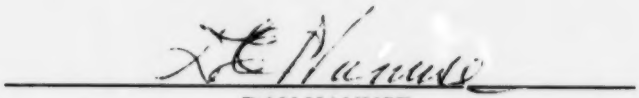
THE HONOURABLE WILLIAM VANDER ZALM



THE HONOURABLE JACK WEISGERBER



HAROLD LONG



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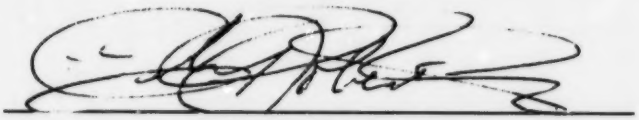
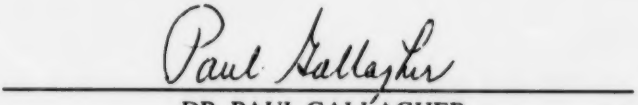
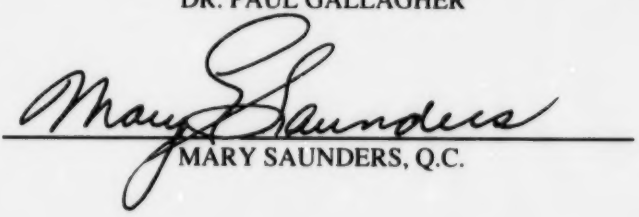


CHIEF ROBERT LOUIE

MARGARET VICKERS

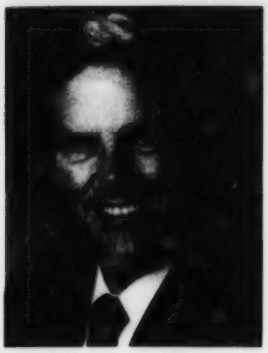


DR. PAUL GALLAGHER



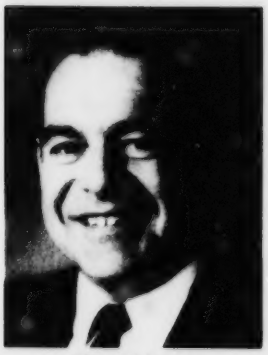
MARY SAUNDERS, Q.C.

Hajimu Watanabe was a member of the council and was involved in the writing of the Progress Report and Interim Recommendations. On July 16, 1990, Mr. Watanabe was transferred by his corporation to Austria and had to resign from the Council.



William Vander Zalm

Jack Weisgerber



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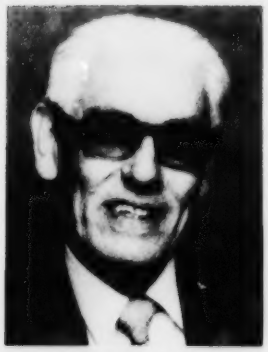
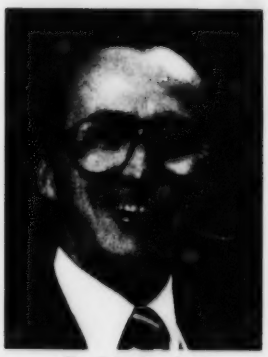


Dan Hanuse

Robert Louie

Margaret Vickers



Paul Gallagher

Mary Saunders